

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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QUAMIR SHAW,

Plaintiff,

-against-

COMPLAINT

Jury Trial Demanded

CITY OF NEW YORK; P.O. James Gatto; Police Officer “John” Tabor (Shield No. 1099) and JOHN and JANE DOE 1 through 10, individually and in their official capacities (the names John and Jane Doe being fictitious, as the true names are presently unknown),

Defendants.

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NATURE OF THE ACTION

1. This is an action to recover money damages arising out of the violation of plaintiff's rights under the Constitution.

JURISDICTION AND VENUE

2. This action is brought pursuant to 42 U.S.C. §§ 1983 and 1988, and the Fourth and Fourteenth Amendments to the Constitution of the United States.

3. The jurisdiction of this Court is predicated upon 28 U.S.C. §§ 1331, 1343 and 1367(a).

4. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 (b) and (c).

JURY DEMAND

5. Plaintiff demands a trial by jury in this action.

PARTIES

6. Plaintiff Quamir Shaw (“plaintiff” or “Mr. Shaw”) is a resident of New York County in the City and State of New York.

7. Defendant City of New York is a municipal corporation organized under the laws of the State of New York. It operates the NYPD, a department or agency of defendant City of New York responsible for the appointment, training, supervision, promotion and discipline of police officers and supervisory police officers, including the individually named defendants herein.

8. P.O. James Gatto, at all times relevant herein, was an officer, employee and agent of the NYPD. Defendant Gatto is sued in his individual and official capacities.

9. At all times relevant defendants John and Jane Doe 1 through 10 were police officers, detectives or supervisors employed by the NYPD. Plaintiff does not know the real names and shield numbers of defendants John and Jane Doe 1 through 10.

10. At all times relevant herein, defendants John and Jane Doe 1 through 10 were acting as agents, servants and employees of defendant City of New York and the NYPD. Defendants John and Jane Doe 1 through 10 are sued in their individual and official capacities.

STATEMENT OF FACTS

11. At all times relevant herein, all individual defendants were acting under color of state law.

12. At or about 1:00 P.M. on November 30, 2014, Plaintiff, was in the vicinity of 42nd Street between Seventh and Eighth Avenue when Gatto and other defendant officers pulled up next to him in an unmarked police car.

13. When plaintiff saw the defendant officers move aggressively towards him, he began walking quickly away from them.

14. When defendants ordered plaintiff to stop, he complied.

15. Defendants then through plaintiff to the ground, violently twisted his arm behind his back and was placed in handcuffs

16. While plaintiff was in a handcuffs, one of the defendants began twisting plaintiff's middle finger. Plaintiff screamed in pain and asked the officer to stop.

17. In response to plaintiff's pleas, the officer twisted plaintiff's finger with more force.

18. Plaintiff was then placed in a police vehicle and taken to the police precinct.

19. At the precinct, plaintiff was in great pain and his finger began to swell.

20. Plaintiff pleaded with defendants to take him to the hospital. Ultimately, defendants complied.

21. At the hospital plaintiff was diagnosed with multiple fractures to his middle finger and instructed to seek further care upon his release.

22. On December 11, 2014 plaintiff had surgery on his left middle finger where it was found that his finger had been broken and the joints dislocated.

23. Since plaintiff's surgery plaintiff has been regularly attending physical therapy.

24. Plaintiff is informed that his finger will not fully heal and he will never be able to fully straighten his left middle finger again.

25. Plaintiff was deprived of his liberty, assaulted, battered, suffered emotional distress, mental anguish, pain, fear, anxiety, embarrassment, humiliation, damage to his reputation and loss of income.

FIRST CLAIM
Unreasonable Force

26. Plaintiff repeats and realleges each and every allegation as if fully set forth herein.

27. The defendants violated the Fourth and Fourteenth Amendments because they used unreasonable force on plaintiff.

28. As a direct and proximate result of this unlawful conduct, plaintiff sustained the damages hereinbefore alleged.

SECOND CLAIM
Failure To Intervene

29. Plaintiff repeats and realleges each and every allegation as if fully set forth herein.

30. Those defendants that were present but did not actively participate in the aforementioned unlawful conduct observed such conduct, had an opportunity prevent such conduct, had a duty to intervene and prevent such conduct and failed to intervene.

31. Accordingly, the defendants who failed to intervene violated the First, Fourth, Fifth And Fourteenth Amendments.

32. As a direct and proximate result of this unlawful conduct, Plaintiff sustained the damages hereinbefore alleged.

PRAYER FOR RELIEF

WHEREFORE, plaintiff respectfully requests judgment against defendants as follows:

- (a) Compensatory damages against all defendants, jointly and severally;
- (b) Punitive damages against the individual defendants, jointly and severally;
- (c) Reasonable attorneys' fees and costs pursuant to 28 U.S.C. § 1988; and
- (d) Such other and further relief as this Court deems just and proper.

DATED: February 18, 2015
New York, New York

_____/s/_____
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